

**ADD THE FOLLOWING TO THE END OF SECTION 8 AS A NEW SECTION 8.7, MARIJUANA ESTABLISHMENTS**

**§[8.7]. Marijuana Establishments.**

(a) **Purpose.** The purpose of this section is to provide for the placement of Marijuana Establishments (MEs) and Medical Marijuana Treatment Centers in suitable locations in the Town of Cheshire (the "Town") in recognition of and in accordance with "The Regulation of the Use and Distribution of Marijuana Not Medically Prescribed," M.G.L. c. 94G and "Medical Use of Marijuana", M.G.L. c. 94I. The specific purpose of this section is to safeguard the built environment by permitting compliance with state law in a manner consistent with community and neighborhood concerns, while also ensuring that those entities permitted to operate a ME or Medical Marijuana Treatment Center, as defined herein, comply with the relevant provisions of Chapter 334 of the Acts of 2016, Chapter 351 of the Acts of 2016, Chapter 55 of the Acts of 2017, and the regulations promulgated by the Cannabis Control Commission (CCC) found at 935 CMR 500.000 and 105 CMR 725.000 et seq.

(b) **Definitions.**

**CRAFT MARIJUANA COOPERATIVE** – a Marijuana Cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the CCC, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and Marijuana Products to deliver marijuana to MEs but not to consumers.

**INDEPENDENT TESTING LABORATORY** - a laboratory that is licensed by the CCC and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or ME for which it conducts a test; and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c.94C, § 34.

**LICENSE** – The certificate issued by the CCC that confirms that a ME has met all applicable requirements pursuant to St. 2012, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000. A ME may be eligible for a provisional or final license.

**MARIJUANA ESTABLISHMENT (ME)** – a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

**MARIJUANA CULTIVATOR** – an entity licensed to cultivate, process, and package marijuana; to deliver marijuana to MEs; and to transfer marijuana to other MEs but not consumers.

**MARIJUANA CULTIVATION FACILITIES** – facilities that a Marijuana Cultivator may be licensed to operate.

**MARIJUANA PRODUCT MANUFACTURER** – an entity licensed to obtain, manufacture, process, and package marijuana and Marijuana Products; to deliver marijuana and Marijuana Products to other MEs, and to transfer marijuana and Marijuana Products to other MEs but not consumers.

**MARIJUANA PRODUCTS** – products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

**MARIJUANA RETAILER** – an entity licensed to purchase and deliver marijuana and Marijuana Products from MEs and to deliver, sell, or otherwise transfer marijuana and Marijuana Products to other MEs and to consumers.

**MARIJUANA TRANSPORTER** – an entity, not otherwise licensed by the CCC, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to MEs, but not to consumers.

**MEDICAL MARIJUANA TREATMENT CENTER** – a not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

**MICROBUSINESS** – a colocated ME that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other MEs.

**RESEARCH FACILITY** – an entity licensed to engage in research projects by the CCC.

**(c) Designated Locations for MEs and Medical Marijuana Treatment Centers.**

- (1) Marijuana Cultivation Facilities may be sited within the Agricultural Residential (A-R) zone district on parcels at least 5 acres in size, upon the approval of a Special Permit and Site Plan, as per Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations.
- (2) Medical Marijuana Treatment Centers and all types of ME's, except for Cultivation Facilities, may be sited in the Marijuana Overlay District (Figures 1a & 1b, below), upon the approval of a Special Permit and Site Plan, as per Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations.

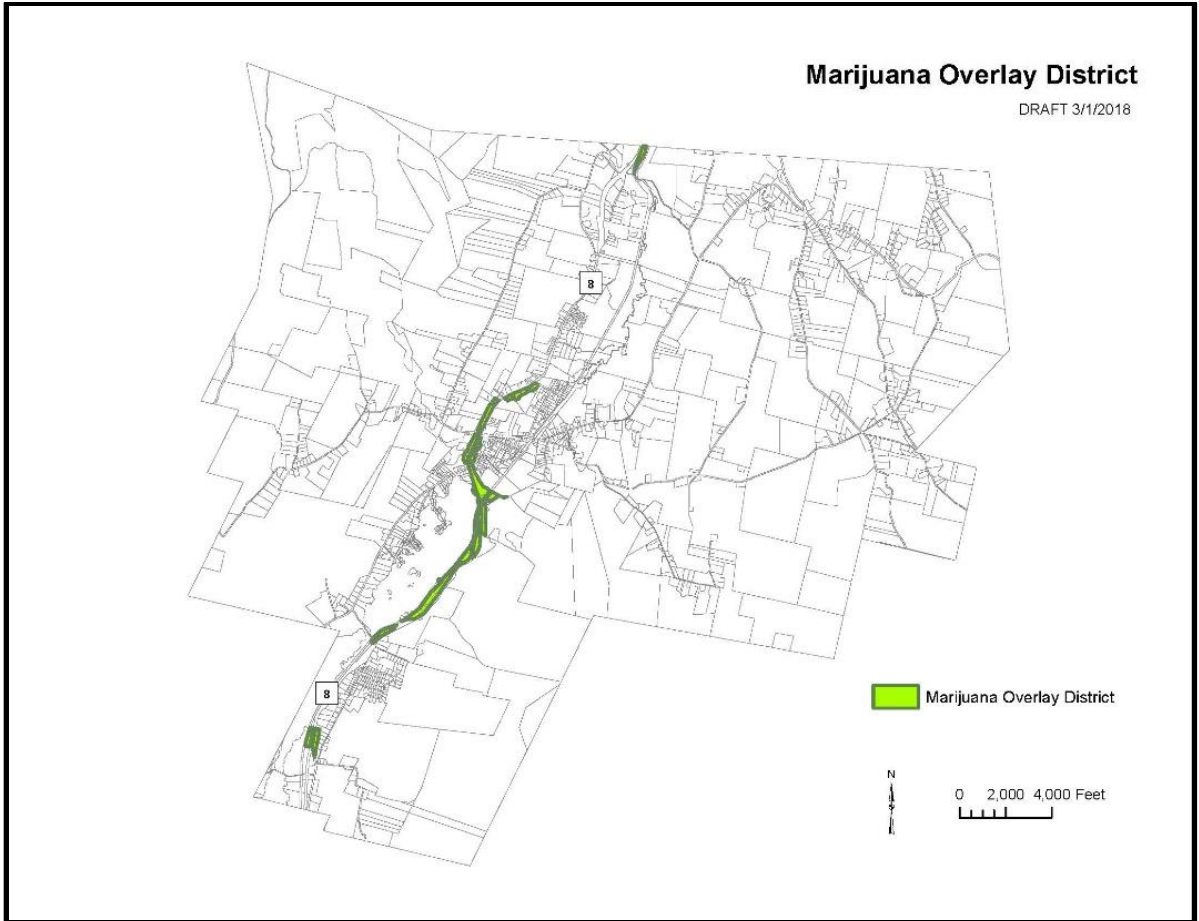


Figure 1a (entire overlay district)

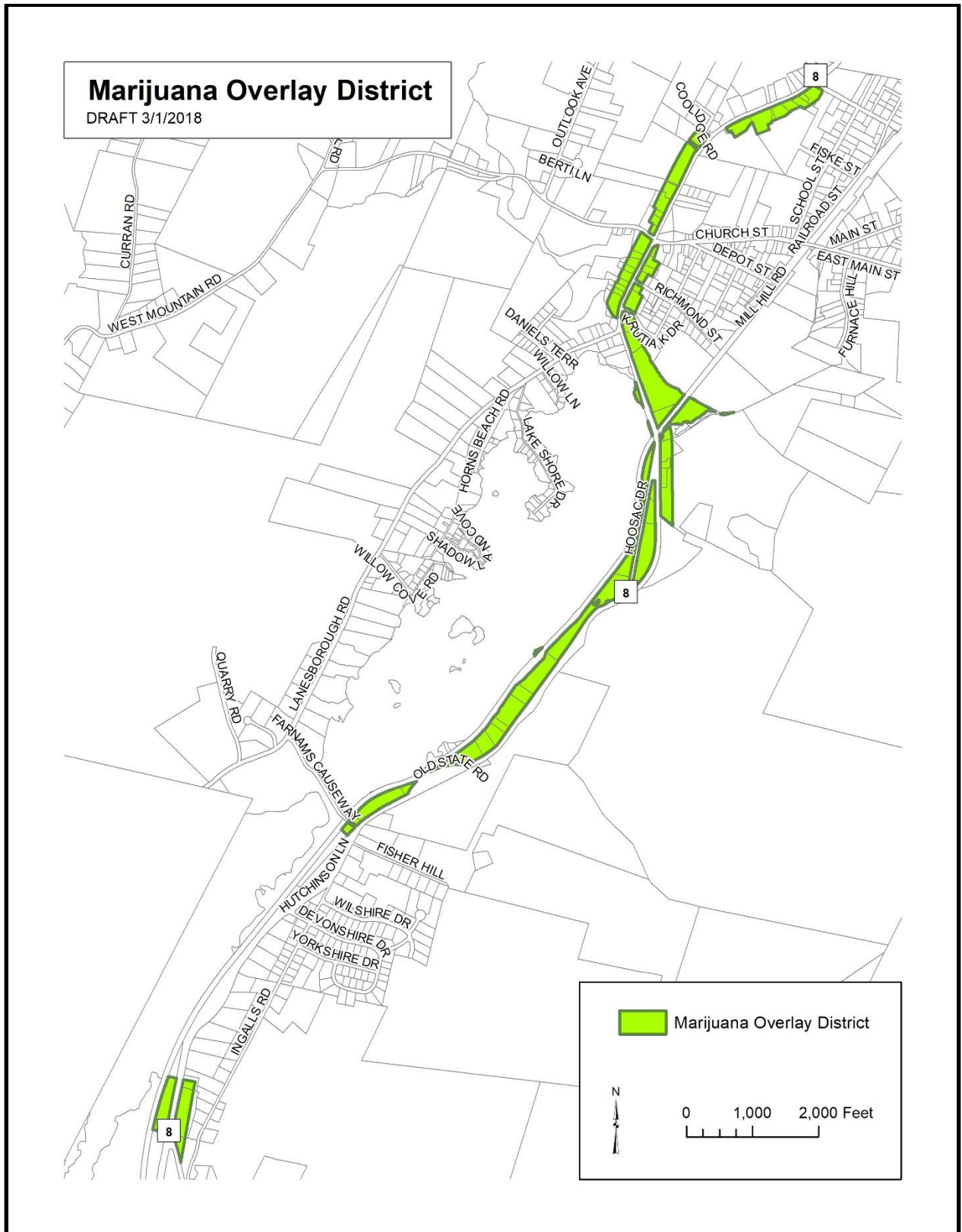


Figure 1b (detail of most of overlay district, except the single northernmost property)

- (3) All ME's or Medical Marijuana Treatment Centers must be set back at least five hundred feet (500') from any public or private school or licensed daycare center. Distances shall be measured by a straight line between the nearest structures of said schools or daycares and the nearest building used for marijuana purposes.
  - (4) Each ME or Medical Marijuana Treatment Center and any part of their operation, including but not limited to, cultivation, processing, packaging, and sales, shall be operated from a fixed location. No marijuana establishment shall be permitted to operate from a moveable, mobile, or transitory location, except for Marijuana Transporters, as defined in 935 CMR 500.002.
- (d) **Designated Number of Marijuana Establishments and Medical Marijuana Treatment Centers.**
- (1) The total number of MEs operated by a Marijuana Retailer shall not be greater than one (1), except that in no instance shall the number of retailers be fewer than twenty percent (20%), of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises, as set forth in G.L. c. 94G Section 3(a)(ii). Fractions of establishments shall be rounded up to the nearest whole number.
  - (2) The total number of non-retailer MEs shall not exceed one (1).
  - (3) The total number of Medical Marijuana Treatment Centers shall not exceed one (1).
  - (4) In the event that the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises decreases, any ME, if then exceeding the limits as noted in D.1, may remain in operation.
- (e) **Special Permit Required.** No ME or Medical Marijuana Treatment Center shall be operated or expanded without first obtaining a Special Permit from the Town of Cheshire Special Permit Granting Authority in accordance with Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations.
- (1) The Special Permit Granting Authority for any ME or Medical Marijuana Treatment Center shall be the Planning Board.
  - (2) A Special Permit shall only be valid for use by the Applicant and will become null and void upon the sale or transfer of the license of a ME or Medical Marijuana Treatment Center or change in the location of the business.
  - (3) In the event that the Commonwealth's licensing authority suspends the license or registration of an ME, the Special Permit shall be so suspended by the Town until the matter is resolved to the satisfaction of said licensing authority.
  - (4) The Special Permit shall be considered null and void if meaningful construction has not begun on the project within 6 months obtaining said permit, as determined by the Building Inspector or their designee(s).
- (f) **Site Plan Review.** Applications to operate or expand a ME or Medical Marijuana Treatment Center shall be subject to Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations. The site plan shall be submitted in conjunction with the Special Permit application and joined to the final approval for the Special Permit.

**(g) General Requirements for MEs and Medical Marijuana Treatment Centers.**

- (1) Outside storage. No outside storage of marijuana, marijuana products, related supplies, or educational materials is permitted, except at open-air, outdoor cultivation facilities.
- (2) Visibility of activities. All activities shall be conducted indoors, except for open-air, outdoor cultivation facilities or Marijuana Transporters.
- (3) Paraphernalia. Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may be lawfully sold at a marijuana retailer. No retail marijuana, marijuana products, or paraphernalia shall be displayed or kept in a retail marijuana store so as to be visible from outside of the licensed premises.
- (4) Hours of operation. A marijuana retailer may not open earlier than 8:00 AM and shall close no later than 8:00 PM the same day, Monday through Saturday, and no earlier than 12:00 PM and no later than 6:00 PM on Sunday. There shall be no hourly restrictions on any other type of ME or Medical Marijuana Treatment Center, unless imposed by the Special Permit Granting Authority as part of site plan approval.
- (5) On-site consumption of marijuana. On-site consumption is prohibited on or within the premises of any ME, except for Research Facilities.
- (6) Sale of alcohol. ME's or Medical Marijuana Treatment Centers are prohibited from selling alcoholic beverages.

**(h) Filing Requirements for MEs or Medical Marijuana Treatment Centers.** Applications must be submitted to the Planning Board and shall include the following:

- (1) A Site Plan, as per the requirements of the Town of Cheshire Special Permit Rules and Regulations.
- (2) A Security Plan. A security plan shall be submitted to ensure the safety of employees, patrons, and the public to protect the premises from theft or other criminal activity. The security plan shall be reviewed and approved by the local Police Chief, or their designee. The Security Plan shall include the following:
  - i. An interior floorplan (including secured areas, windows, doors, etc.)
  - ii. Exterior lighting
  - iii. Fencing (if any)
  - iv. Gates (if any)
  - v. Alarms
  - vi. Any other security measures as requested by the Police Chief.
- (3) State License. A copy of the license or registration as a ME from the Massachusetts Cannabis Control Commission or documentation that demonstrates that said facility and its owner/operators qualify and are eligible to receive a Certification of Registration and meet all of the requirements of a ME in accordance with the regulations adopted by the Commission, as amended. Proof of license may also be accepted from the State Department of Health under certain circumstances for Medical Marijuana Treatment Centers.

- (i) **Discontinuance of Use.** Any marijuana use under this Section shall be required to remove all material, plants, equipment, and other paraphernalia in compliance with regulations established by the Cannabis Control Commission within thirty (30) days after the expiration or voiding of its license.
  
- (j) **No Town liability; indemnification.**
  - (1) The Applicant and all licensees waive and release the Town, its elected officials, employees, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of the ME or Medical Marijuana Treatment Center owners, operators, employees, clients, or customers for a violation of state or federal laws, rules, or regulations.
  
  - (2) The Applicant, in receiving approvals issued pursuant to this chapter, and all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the Town, its elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, arising out of or in any manner connected with the operation of any ME or Medical Marijuana Treatment Center that is subject of the approval/license.
  
- (k) **Other laws remain applicable.**
  - (1) Business License Required. At all times while a permit is in effect the licensee shall possess a valid license.
  
  - (2) To the extent that the state has adopted or adopts in the future any additional or stricter law or regulation governing the cultivation, manufacturing, testing, research or retail of marijuana or Marijuana Products, the additional or stricter regulation shall control the ME or Medical Marijuana Treatment Center in the Town. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.
  
  - (3) Prior to the issuance of a Special Permit, the ME or Medical Marijuana Treatment Center must have entered into a Host Community Agreement (HCA) with the Town. If, upon review by the Special Permit Granting Authority, the ME or Medical Marijuana Treatment Center is found to not be fully in compliance with the HCA, the Special Permit and/or the local license may be suspended or rescinded.

<b>AMEND TABLE OF CONTENTS WITHIN PROTECTIVE AND PLANNING ZONING BYLAW:</b>
---

**SECTION 8 – SPECIAL REGULATIONS**

- 8.1 Temporary Buildings
- 8.2 Radioactive and Hazardous Waste Disposal
- 8.3 Wireless Telecommunication Facilities
- 8.4 Large Wind Energy Facilities
- 8.5 Small Wind Energy Systems

8.6 Solar Photovoltaic Installations

**8.7 Marijuana Establishments**

**AMEND SECTION 2.1, Types of Zoning Districts**

**Overlay Districts**

- FP Flood Plain District
- FHD Flood Hazard District
- WSPD Water Supply Protection District
- MED *Marijuana Establishment District***

**AMEND SECTION 3.2(a), TABLE OF USE REGULATIONS**

21. Research laboratory or light manufacturing activity where the major portion of the product is retailed on the premises or by mail, ***not including marijuana uses.***

25. Commercial greenhouse, nursery or landscape gardening, ***not including marijuana uses.***

**37. *Marijuana cultivation facilities (see Section 8.7)***

Zoning Districts		
R-1	A-R	B
<b><i>NO</i></b>	<b><i>SPP</i></b>	<b><i>NO</i></b>

**38. *Marijuana establishments for retailers, manufacturers, testing laboratories, research facilities, micro-businesses, craft cooperatives and all other types of licensed marijuana facilities, including Medical Marijuana Treatment Centers (See Section 8.7)***

Zoning Districts		
R-1	A-R	B
<b><i>NO</i></b>	<b><i>NO</i></b>	<b><i>SPP</i></b>

**CREATE A NEW ARTICLE 45 WITHIN THE TOWN OF CHESHIRE BYLAWS: RECREATIONAL MARIJUANA EXCISE TAX**

In accordance with Mass Acts 2017, Chapter 55, Section 13, and pursuant to MGL Chapter 64 N, Section 3, the Town of Cheshire hereby adopts a 3% gross sales tax applicable to marijuana retailers. The marijuana retailer shall pay the local sales tax imposed under this bylaw to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.